

## CHAPTER 12

MISCELLANEOUS PAYMENTS1201 FEES AND AWARDS120101 Attorney Fees Awarded by Court

The Department of Justice (DOJ), in most cases, is the Federal agency designated to represent DoD in litigation. Additionally, the DOJ is funded to make payments of properly awarded attorney fees. (Fees awarded in discrimination cases are exceptions. See paragraph 120228 for more detail.) Attorney fees must be awarded by a court of competent authority and normally are paid by DOJ from its permanent appropriation. If such fees are not payable from this appropriation, the DOJ will provide guidance on a case-by-case basis.

120102 Awards Made to Bid Protesters Under the Competition Act of 1984 (31 U.S.C. 3551-3556)

If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may decide that the protesting party is entitled to the following:

A. The payment of costs associated with the filing and pursuing the protest, including reasonable attorney fees.

B. The payment of costs of bid and proposal preparation amounts must be made from the funds of the activity funding the contract within 30 days after receipt by the contracting office. A copy of the Comptroller General decision, along with a statement of costs incurred and approved by the contracting officer, will be used to support the payment.

C. A successful bid protester must certify, to the best of one's knowledge and belief, that the statement of costs submitted or payment:

1. Contains only costs that are legitimately payable pursuant to the guidance set forth by the General Accounting Office in connection with payments of attorney fees and bid preparation costs.

2. Are complete and accurate.

120103 Attorney Fees Awarded Under the Equal Access to Justice Act (5 U.S.C. 504 and 28 U.S.C. 2412)

A. The Equal Access to Justice Act (EAJA) authorizes payment of attorney fees and other expenses incurred by the prevailing party (other than the U.S.) in civil actions and in administrative proceedings. The party prevailing against the Department in an adversary adjudication or in a court action may obtain an award of attorney fees and other expenses incurred in connection with the proceeding.

1. In adversary adjudications, application for the amount sought must be submitted to the DoD activity involved within 30 days of final disposition in the adversary adjudication (5 U.S.C. 504).

2. In court actions, the application for an award of attorney fees and other expenses must be submitted to the court within 30 days of final judgement in the action (28 U.S.C. 2412).

3. In both cases, the application must be supported by an itemized statement from the attorney, agent, or expert witness stating the actual time spent and the rate at which fees and other expenses were computed.

B. Attorney fees and other expenses awarded claimants under EAJA are paid from funds available to the DoD activity at the time that the award is made. Attorney fees payable under EAJA are limited to \$75 per hour unless the adjudicating officer (deciding official) or the

court in civil actions determines that a higher rate may be allowed under the law. Other expenses include those for expert witnesses and for any study, analysis, engineering report, test or project necessary for the preparation of the party's case. Make payment in the amount approved by the adjudicating officer, or by the court in civil actions, based on documentation from the adjudicating officer or the court.

C. Attorney fees payable in connection with an action filed by a contractor under the Contract Disputes Act of 1978 will not be included in any payment made by the Department of the Treasury to the contractor. Attorney fees awarded in these cases will be paid out of funds current at the time the award is made and available to the activity accountable for the contract obligation.

**120104 Claims Under the Federal Tort Claims Act and Other Noncontractual Claims**

A. Persons who have been designated to approve or disapprove claims cognizable under these statutes and the regulations governing preparation, submission, adjudication, and payment of the claims can be obtained from local office of counsel or judge advocate office. Send claims approved by the Secretary of a Military Department, or by designated approving authorities in the office of counsel or judge advocate general, to the appropriate DFAS Center or local disbursing office for preparation and payment of the public voucher. Claims approved by other designees are forwarded to the local disbursing office that serves the approving authority for preparation and payment of the public voucher.

B. The Secretary of Defense or designee is authorized to pay claims against the United States for money damages of:

1. \$2,500 or less under the Federal Tort Claims Act as amended by 28 U.S.C. 2671-2680.

2. \$100,000 or less under property loss; personal injury or death; incident to non-combat activities of Department of Army, Navy, or Air Force. (See 10 U.S.C. 2733.)

3. \$1,000 or less under property loss; personal injury or death; incident to use of property of the United States and not cognizable under other law. (See 10 U.S.C. 2737.)

**120105 Claims Under The Foreign Claims Act, U.S.C. 2734**

The Foreign Claims Act authorizes the Secretaries of the Military Departments, or their designee, to appoint claims commissions to approve or disapprove claims cognizable under the Act. Similar commissions also may approve or disapprove claims cognizable under the North Atlantic Treaty Organization status of forces and similar agreements and 10 U.S.C. 2733 and 2734. Contact the local office of counsel or judge advocate office for the regulations governing preparation, submission, adjudication, and payment of these claims. Claims approved will be forwarded to the nearest DFAS disbursing office serving the country concerned.

**120106 Payment to Contractor When Contracting Officer Approves Claim Under the Contract Disputes Act of 1978 (41 U.S.C. 601-613 and FAR 33.0 and 52.233-1)**

A. If funds are not available, the contracting officer may refer the claim to the Armed Services Board of Contract Appeals (ASBCA) and request that the ASBCA approve settlement of the claim from the judgment fund. Reimbursement to the judgment fund is made upon receipt of a bill from the Treasury Department from current and available funds or by obtaining additional funds as stated in paragraph 120108. The procedures for payment of amounts under the Contract Disputes Act by the ASBCA or the Court of Federal Claims are in paragraph 120107. Claims in paragraph 120107 exclude claims applicable to the Prompt Payment Act (PPA). The Comptroller General has held that PPA interest must be paid from the funds available for the administration of the program for which interest was incurred. (See paragraph 070401.)

B. If funds are available and the contractor does not appeal, settlement is made by the contract disbursing office from funds cited on the contract. Interest on the amounts found to be due the contractor is payable from

these same funds from the date the contracting officer receives the claim until payment is made.

1. After final agreement with the contractor, the contracting officer should initiate an SF 30, Amendment of Solicitation/Modification of Contract, to obligate the funds.

2. Upon receipt of the contractor's invoice and the SF 30, payment can be made including interest from the date the claim was received by the contracting officer to the date of payment.

120107 Payment to Contractors Based on Decisions of Board of Contract Appeals or Court of Federal Claims

A. Court action may follow contract termination by the United States. When it does, payment may be due the contractor if final judgment is against the United States. Should this happen, send a transcript of the court judgment direct to the General Accounting Office (GAO), Washington, DC 20548 (except for claims settled under the Contract Disputes Act of 1978 as noted in paragraph 120107-B.) GAO settlement is required by 28 U.S.C. 2414 on final judgment by the United States District Courts and by 28 U.S.C. 2517 on final judgments by the Court of Federal Claims. The GAO pays from the Treasury Department general funds. Do not use Operations and Maintenance or other appropriated funds for this purpose.

B. Payment of claims under the Contract Disputes Act of 1978 (41 U.S.C. 601-613 and FAR 33.2 and 52.233-1) is covered by 41 U.S.C. 612. Judgments against the United States by the Court of Federal Claims and monetary awards to a contractor by the ASBCA are authorized to be paid and charged to the permanent judgment fund established by 31 U.S.C. 1304. Amounts paid may include interest from the date the claim was received by the contracting officer to the date of payment. Attorney fees claimed by the contractor may not be included in amounts paid from the judgment fund in these cases. Attorney fees are processed under the Equal Access to Justice Act as noted in paragraph 120103. The Contract Disputes Act requires that the activity whose funds were used for the

contract must then reimburse the judgment fund out of available funds or by obtaining an additional appropriation.

120108 Payments to Reimburse Treasury for Payments in Settlement of Contractor Claims

Upon certification by the GAO, the amounts of contractor claims settled pursuant to the Contract Disputes Act of 1978 may be paid to the contractor by the Treasury Department from the permanent judgment fund. Amounts paid to contractors are reimbursable to the U.S. Treasury from the appropriation available for the purpose of the contract or by obtaining additional funds for such purpose. The Treasury Department will bill the contract disbursing office. If funds are not available in the proper account to cover invoices received from the Treasury Department, request additional funds through appropriate channels. Amounts reimbursed to the Treasury Department must be charged to current funds. Expired or M account funds cannot be used. See 63 Comp Gen 308 1984.

120109 Interest Awarded Contractor by the Armed Services Board of Contract Appeals (ASBCA)

A. Applicable interest rates are established by the Secretary of the Treasury under Public Law 92-41 in January and July of each year. Rates are announced in the Federal Register.

B. Interest is computed from the date that the contracting officer received the claim or the date that payment is due, if that date is later, until the date of payment. See FAR 33.208.

C. Contract claims and interest payments are chargeable to appropriations current at the time the basic contract was executed if they are based on "antecedent liability". A contract claim is based on antecedent liability if the modification or adjustment is within the general scope of the original contract and is made pursuant to a provision, such as a "changes" clause, in the original contract. Contract claims not based on antecedent liability are chargeable to appropriations current when the claim is allowed.

120110 Return of Absentees

Under 10 U.S.C. 956, certain rewards are authorized and paid as follows:

A. Reimbursement for Actual Expenses. When a reward has not been offered or when conditions for payment of a reward otherwise cannot be met, reimbursement, not to exceed \$75, may be made to any person or agency for actual expenses incurred in the apprehension, detention, or delivery to military control of an absentee or deserter. If two or more persons or agencies join in performing these services, payment may be made jointly or separately, but the total payment or payments may not exceed \$75. Reimbursement may not be made for the same apprehension and detention or delivery for which a reward has been paid. Actual expenses for which reimbursement may be made will include:

1. Taxicab, bus fare, or mileage at the per mile rate established by the Joint Travel Regulation for a privately-owned conveyance when travel is performed either by a citizen or officer and prisoner, or a round trip from either place of apprehension or civil police headquarters to place of return to military control.

2. Meals furnished the member for which the cost was assumed by the apprehending person or agency representative.

3. Telephone or telegraph communication costs.

4. Damage to property of the apprehending person or agency if caused directly by the member during his or her apprehension, detention, or delivery.

5. Such other reasonable and necessary expenses incurred in actual apprehension, detention, or delivery as may be considered justifiable and reimbursable by the commanding officer.

B. Reimbursement for Subsistence Furnished. Civil authorities may be reimbursed for the cost of subsistence furnished to military personnel placed in their custody for safe-

keeping at the request of military authorities. Such reimbursement will be in addition to rewards and reimbursement for actual expenses. Payment of subsistence will be made in accordance with the procedures for payment of other actual expenses except that an itemized statement of charges approved by the officer who directed the confinement is required.

C. Condition for Payment. Before a reward is payable, there must be a notification issued for the return to military control of the absentee, deserter, or escaped military prisoner. Receipt of DD Form 553, Deserter/Absentee Wanted by the Armed Forces, oral or written communication from military or federal law enforcement officials, or entering individual's name in the National Crime Information Center, constitutes notification.

D. Amounts Payable

1. A reward of \$50 is paid for the apprehension and detention until military authorities assume physical control of the member.

2. A reward of \$75 is paid for the apprehension and delivery of the member to military control.

E. Voucher Preparation. An SF 1034 is prepared and certified by the personnel officer or other certifying officer designated by the commanding officer of the activity to which the apprehended member was released. The following data must be shown on the voucher:

1. The member's name, Social Security Number, organization from which the member is absent, and the date and place military authorities resumed control.

2. A statement that the payee apprehended and detained, or apprehended and delivered the member.

F. Voucher Support. For payment of reward, attach a copy of a DD Form 553 or a certificate from the organization of absentee or written notification from military or federal law enforcement officials stating that the absentee's return to military control was desired. For

reimbursement of actual expenses, attach an itemized statement of allowable expenses.

G. Payment. Upon receipt of the SF 1034 claiming payment, the disbursing office reviews the voucher for propriety and, if proper, pays the person or agency concerned. On the SF 1034, cite the military appropriation of the parent military service of the person apprehended. Use the appropriation table that follows:

SERVICE	APPROPRIATION
Army	21(*)2010 01-174 P1510 99999
Navy	17(*)1453.2260 60600 71165
Air Force	57(*)3500 32(*)P591.02 503725
Marines	17(*)1105.2702 12690 71165

(\*) Insert the digit which identifies the fiscal year.

H. Reimbursement will not be made for:

1. Lodging at nonmilitary confinement facilities.

2. Transportation performed by the use of official Federal, state, county, or municipal vehicles.

3. Personal services of the apprehending, detaining, or delivering person or agency.

Payment of actual expenses will be made in accordance with the payment procedures in this paragraph except when an itemized statement of costs approved by the commanding officer is required and notice of DD Form 553 or other form is not required.

## 1202 PURCHASES OF SPECIAL ITEMS

### 120201 Expense of Border Clearance Inspectors

If border clearance inspectors are required to work overtime or on Sundays and holidays at a DoD installation, the DoD installa-

tion pays the overtime expenses incurred, including travel and subsistence when appropriate. Travel and subsistence are not paid for border clearance officials regularly assigned to DoD installations. When additional inspectors are required to supplement the regularly assigned inspection staff, the DoD installation pays for their overtime, travel, and subsistence. If a DoD aircraft lands at a site other than a DoD installation, the home station of the aircraft shall pay the charges. When a DoD aircraft lands at a DoD installation, the installation providing the clearance service bears the expense of the border clearance inspection. These charges should receive financial approval and reservation of funds as soon as possible after the expenses are incurred. The DoD official designated to make the necessary arrangements shall maintain appropriate records, submit requests for overtime, and certify billing documents for payment. Billing forms of the Federal agency providing the service are acceptable. Make payment on the basis of a certificate that services were received and accepted. Invoices from one agency may be consolidated and paid by a single check. Send one copy of the payment voucher to the agency with the check.

### 120202 Blood Purchases

Blood supplies may be purchased with appropriated funds for persons entitled to medical treatment at government expense (24 U.S.C. 30).

### 120203 Special Drinking Water

Special drinking water may be purchased with appropriated funds only when it is necessary from the government's standpoint, such as when:

A. The public water is unsafe for human consumption.

B. There is an emergency failure of the water source on the installation.

C. There is a temporary facility with no drinking water available within a reasonable distance.

D. There is no water fit for drinking purposes available without cost or at a lower cost to the government (3 Comp Gen 828 (1924); 5 Comp Gen 90 (1925); 17 Comp Gen 698 (1938); 18 Comp Gen 238 (1938); 24 Comp Gen 56 (1944); and 25 Comp Gen 920 (1946)).

#### 120204 Automobiles

The use of appropriated funds to purchase or hire passenger motor vehicles must be specifically authorized by appropriation act or other law (31 U.S.C. 1343, 1344, and 1349). Tire chains, fire extinguishers, safety flares, removable seat covers, transportation of the vehicle, and taxes are not included in the purchase cost limitation (19 Comp Gen 988 (1940); 28 Comp Gen 721 (1949); and 36 Comp Gen 725 (1957)). Rental cost of automobiles may not exceed statutory purchase limitations (13 Comp Gen 458 (1934)).

#### 120205 Telephone Service

##### A. Statutory Provisions

1. Appropriated funds normally should not be used to pay for telephone service to private residences or apartments. Exceptions must specifically be provided by law. Long distance calls from private residences on official business may be paid from appropriated funds if supported by properly certified vouchers (31 U.S.C. 1348 and 68 Comp Gen 307 (1989)).

2. Official telephone bills for a period beginning in one fiscal year and ending in another are paid from the appropriation current at the end of the period (31 U.S.C. 1308). This rule also applies to leased wire and teletypewriter services (34 Comp Gen 414 (1955)).

3. Funds collected from sale of telephone services are credited as an appropriation reimbursement to the appropriation that bore the cost of such services (10 U.S.C. 2481).

4. Service clubs, motion picture service, base exchange activities, and officers' and non-commissioned officers' messes within the U.S. are subject to federal communications taxes (26 U.S.C. 4251). Federal credit unions and

the American Red Cross are exempt from the tax (26 U.S.C. 4253). The federal excise tax rate effective on bills received after January 1, 1990 is zero percent. The rate effective January 1, 1983 through December 31, 1989 is 3 percent. The rate in effect for calendar year 1982 is 1 percent and for calendar year 1981 is 2 percent. (Public Law 97-248 and IRS Code 4251, as amended).

B. Increased Rates. A contract may provide for payment of telephone charges at legally established rates. Under such contracts, rate increases approved by rate-setting authorities may be paid. Increased rates subject to approval of rate-setting authorities may be paid subject to adjustment if the increase is not approved (15 Comp Gen 896 (1936); 27 Comp Gen 580 (1948); 29 Comp Gen 71 (1949); and 30 Comp Gen 435 (1951)).

C. Payment Procedures. The office designated to receive the telephone bills, from the telephone company, prepares and certifies the SF 1034 for payment by signing as the "Authorized Certifying Officer" in the space provided. The SF 1034 then is forwarded together with the telephone company bill. Detailed listings, schedules, etc., supporting the telephone company's bill are retained by the responsible office and are not attached to the payment voucher.

D. Long Distance Calls. A certificate is required on each telephone bill or on the supporting statements of toll service with respect to the official long distance calls billed thereon as follows: "Pursuant to Section 4 of the Act of May 10, 1939 (53 Stat. 738; 31 U.S.C. 1348), I certify that the use of the telephone for official long distance calls listed herein was necessary in the interest of the government." The certificate is not required for charges covering telephone calls within a metropolitan exchange or which are billed as message units, nor for intragovernment reimbursement for telephone calls over government-owned or government-leased facilities. The certificate will be signed by proper authority and the capacity in which the person signs will be indicated clearly, such as "John Brown, Communication Officer."

E. Teletypewriter Service. Teletype-

writer service is provided by telephone companies. The charges, based on time used, are billed in the same manner as long distance calls.

**F. Unofficial Telephone Calls and Service.**

1. The officer responsible for telephone service to each activity is responsible for billing and collecting for unofficial service.

2. An administrative fee may be charged to the individual placing an unauthorized and unofficial call. See the Federal Information Resources Management Regulation for more details.

**G. Charges for Unofficial Telephone Service.** The purchaser shall pay all charges for unofficial use of telephone service provided from a DoD switchboard. Charges for extensions, special or miscellaneous equipment and installation costs thereof, and toll call and telephone charges when incurred shall be added to the basic monthly rate. Taxes shall be assessed as applicable. However, purchasers may not be assessed an additional charge for unlisted telephone number service. Listing of telephone numbers in the DoD installation directory is considered a locator service rather than a telephone service. Personnel have the option of having their personal phone numbers listed or unlisted in the directory and may not be charged an additional fee in either case. Installers shall bill purchasers all flat-rate charges on the first regular monthly bill following incurrence of the service. When a purchaser has received service for only a fraction of the billing period, the monthly charge shall be prorated. Tables of fractional charges and credits may be used to determine the amount of the prorated charge.

**H. Collections.** Collections for unofficial telephone service, including flat rate monthly service charges, toll charges, private telegrams made by telephone, applicable taxes, and charges for extensions, installations, special or miscellaneous equipment, and for occasional unofficial use of official telephones will be deposited with the disbursing office of the activity at which it was collected. Collections received shall be credited to appropriations and allotments avail-

able for supplying such service. Reimbursement for DoD provided unofficial telephone services in the U.S. shall be credited to the concurrently available appropriations in proportion to the annual amount of operating expenses incurred and charged to appropriations that financed the services. At overseas locations, except for industrial fund activities, collections shall be distributed proportionately, based on the overseas flat rate cost elements, to appropriations and miscellaneous receipts in the following ratio:

70 percent to operations and maintenance,  
25 percent to military personnel, and  
5 percent to miscellaneous receipts.

Defense Business Operations Fund activities in overseas locations that provide unofficial telephone service shall retain reimbursements to the extent that expenses were incurred to provide those services. Any excess of reimbursements over associated expenses shall be credited to miscellaneous receipts of the Department of the Treasury. When credit is to an appropriation or fund other than the Defense Business Operations Fund, the disbursing office will forward a copy of the collection voucher to the fiscal officer of the appropriate activity. When security deposits to guarantee payment of obligations, as distinguished from advance payment for services, are made in accordance with local orders, such deposits will be taken up for credit to Security Deposits, Suspense.

**I. Federal Taxes.** Federal taxes applicable to the unofficial telephone service will be paid by the applicable disbursing office using a DD Form 1131, Cash Collection Voucher. The form will show a charge to the same accounting data as indicated for the telephone bill and will bear a full explanation for the expenditure, including identification of the activity where the taxes were collected. All public vouchers for the month will be paid with one check. Monthly payment and quarterly returns will be made in accordance with instructions furnished by the District Director of Internal Revenue for the district in which the disbursing office is located. A copy of the public voucher will not be furnished to the payee.

**J. Refunds.** Refunds of amounts

deposited with a disbursing office for unofficial telephone service will be on a DD Form 1131 chargeable to the appropriation originally credited.

K. Satellite Communications (Radio-telephone Service). As required by Commercial Traffic Regulations (DNC 26), the costs of ship to shore communication service will be collected from personnel using the service by the communication officer of the ship. The communications officer will immediately turn over the amounts collected to the disbursing office who will take up the collection as a credit to Suspense. When the telephone company bills the ship for the service, payment will be made to the telephone company by the disbursing office using an SF 1034 to substantiate the payment.

L. Reimbursement for Telephone Wiring Maintenance. Charges for telephone wiring maintenance necessary in base housing, paid by the tenant, may be reimbursed under 31 U.S.C. 1348. Charges for internal wiring repair in family housing will be reimbursed from maintenance funds and charges for unaccompanied personnel housing from current base funds.

M. Telephone and Cable Television Reconnection Charges.

1. 56 Comp Gen 767 (1977) authorizes expenditure of appropriated funds for reconnection expenses where a move is the result of government action over which the member has no control and the move is directed at government expense. Exclude expenses incurred during permanent change of station.

a. Expenditure is authorized for the following as directed by the base commander:

(1) Mandatory assignment to government-owned housing facilities.

(2) Involuntary relocation (Comp Gen B-227727 Mar 7, 1989) to government or non-government facilities because of base renovation or condemnation proceedings.

(3) The termination of

assigned quarters because of death of qualifying dependents.

b. The reimbursement is not authorized for moves involving:

(1) Voluntary termination of assigned quarters.

(2) The termination of assigned quarters due to demotion to ineligible grade or adverse conduct by member.

(3) The termination of assigned quarters due to family separation (no hardship involved).

(4) Member's voluntary movement from off-base to on-base quarters.

2. Accomplish the expenditure of appropriated funds by either the member's claim for reimbursement or a direct payment to the contractor.

a. Reimbursement to Member. A Service member may pay for reconnection charges when billed and file a claim for reimbursement. The member submits the invoice, letter, or special order directing the move, and a letter request to the billeting officer for bachelor quarters or to the base civil engineer for military family housing for approval and certification.

b. Direct Payment Method. A Service member may submit the same documentation through the billeting officer or base civil engineer to the disbursing office for a direct payment to the contractor. These payments are not subject to the Prompt Payment Act. The payment voucher should contain the statement, "payment is being made for the following individual(s) for reconnection services on the following dates."

(1) Support the reimbursement or direct payment to the contractor with:

(a) Special order or letter directing move.

(b) The letter from the member requesting reimbursement for reconnection charges already paid or direct payment to the contractor for charges not yet paid. Member must certify that amount invoiced includes only those charges incurred in restoring telephone or cable services previously provided at old location and does not include charges for any new services or equipment.

(c) Copy of telephone or cable company invoice certified by the chief of services or base civil engineer showing only applicable reconnection charges. All other charges should be lined off and paid separately by the member.

#### 120206 Emergency Notification Service (9-1-1)

A. Emergency notification is a service allowing a telephone subscriber to dial one number (usually 9-1-1) for any emergency. A central control desk takes the call and notifies the appropriate local government agencies. This service often is provided by a state or local government and usually is funded by charges collected from telephone subscribers. In many cases, this charge actually is a tax levied by the providing agency, and the telephone company merely acts as the billing and collection agent.

B. The Comptroller General has determined that, if the charge is imposed by a telephone company for its own service and duly permitted by the tariff to which all utility customers are subject, the charge is proper and payable by the government. If, however, a state or local government actually is imposing the charge and merely using the telephone company as its agent, the charge amounts to a tax from which the Department is exempt (64 Comp Gen 655 (1985)).

C. Federal agencies do not have the authority to waive immunity from such taxes. If a base paid the 9-1-1 charge in situations where the charge is considered a tax, payment would be improper. Notify the telephone company that the Department cannot pay the fee.

D. If it is unclear whether such charges are taxes or service charges, the responsible

official should contact the base communications officer or higher authority.

E. Telephone service to on-base residents is a matter of private contract between the resident and the local telephone company. If residents are charged for 9-1-1 service, they may not claim exemption on the basis of immunity. If a resident of base housing lives in an area where all fire, police, and other emergency services are provided by the base, the charge may be for services the resident does not receive, and a challenge on that basis may be possible. Regardless of the basis a resident of base housing uses to challenge a 9-1-1 charge, it remains a private matter between the subscriber and the telephone company.

#### 120207 Medical Services Provided by Civilian Non-Federal Sources

A. Members. The military medical treatment facility (MTF) can refer members to civilian health care providers for diagnostic services and/or treatment. Claims from civilian non-Federal sources for such care will be paid on an SF 1034. The form will be prepared and certified for payment within 30 days from the later of receipt of an invoice in the specified office or the date of acceptance of the care provided by the approving authority and supported by itemized invoices. The same standards apply to approved claims for services rendered in connection with care of the dead.

B. Dependents and Retired Personnel. Dependents and retired personnel are authorized certain medical care and diagnostic services as established by statutory authority (10 U.S.C. 1071-1085). When an MTF is managing the care of dependent and retired personnel and must refer those personnel to civilian facilities for care that is beyond the MTF's capability, payment for that supplemental care is authorized. Payment will be made on an SF 1034. The funds charged will be the operating funds of the MTF that made the referral.

#### 120208 Patents, Copyrights, Designs, Etc.

Appropriated funds available for acquiring material may be used to acquire the

following if it benefits the Department.

A. Copyrights, patents, and applications for patents.

B. Licenses under copyrights, patents, and applications for patents.

C. Design, processes, and manufacturing data.

D. Releases, before suit is brought, for past infringement of patents (10 U.S.C. 2386 and FAR 28.105.2).

#### 120209 Copies of Official Records or Documents

Fees required by local laws may be paid to proper officials for certified or photostatic copies of public records or documents required by a court, board, etc. Current funds available may be used to purchase death certificates for deceased retired personnel only if there are no beneficiaries or none can be located (19 Comp Gen 93 (1939)).

#### 120210 Payments to General Services Administration Where DoD Liability Exists for Damages to GSA Motor Pool Vehicles

A. Except for normal wear and tear, the Department is pecuniarily liable for loss of or damages to GSA motor pool vehicles caused by negligence, misconduct, abuse, or inattention of military or DoD civilian personnel.

B. This liability is not confined only to cases of negligence or willful misconduct assessed against individuals. Use an SF 1080, Voucher for Transfers Between Appropriations and/or Funds, for payment to GSA. Funds currently available should be cited on the voucher. The damaged vehicle involved must be fully identified on the SF 1080, which also must include the vehicle registry number, date of damage, and register number of report of survey when applicable.

NOTE: Do not delay payment to the GSA pending report of survey action.

C. Send one copy of the voucher, without supporting papers, with the check to the GSA. Support the original voucher and other copies of vouchers (if applicable) with a certified true copy of the Report of Survey, for DoD property where applicable, and a cost-of-repairs statement prepared by the GSA.

#### 120211 Rewards for Recovery of Lost DoD Property

Under 10 U.S.C. 2252 certain rewards are authorized and paid as follows:

A. Payment of rewards may be made to persons or organizations for the return of lost property or information leading to its recovery.

B. Commanders may offer rewards for recovery of lost property.

#### C. Conditions for Payment of Reward

1. The persons or organizations must know that a reward is being offered or that it is general practice to offer rewards for the return of particular DoD property or information leading to its recovery.

2. The claimant is not a member of the U.S. Armed Forces or an officer, employee, or agency of the U.S. Government.

3. Payment is not inconsistent with local laws, prevailing customs or practices, treaties, or international agreements.

D. Rewards should be paid from the current funds available of the activity concerned. Support the voucher with a copy of the offer of reward, a statement by the commanding officer or designated representative that the conditions for payment of reward have been met, and a release from further claim signed by the claimant.

#### 120212 Tuition

A. Military Personnel. Tuition aid for military personnel will be paid in accordance with the approved contract.

B. Civilian Employee Training. The DD Form 1556, Request, Authorization, Agreement, Certification of Training and Reimbursement is the authorized form to request, authorize, fund, certify, reimburse, and evaluate DoD civilian training. The training may be provided either from government or non-government sources. It must be a regularly scheduled, off-the-shelf course, training conference, or instructional service that is available to the general public and priced the same for everyone in the same category, i.e., price per student, course, program, service, or training space.

1. The total price of training authorized by the use of single DD Form 1556 may not exceed \$25,000.

2. The training officer (or the employee development officer) may authorize the actions summarized in this paragraph. These actions do not involve the contracting functions (see Civilian Personnel Instructions (CPI) 410, Appendix H, for further uses/use limitations on the form).

3. Prohibitions against the payment of tuition or other expenses for training are outlined in Federal Personnel Manual (FPM) 410.4, 410.5, 410.6, 410.7 and 410.8 and CPI 410.4, 5, 6, 7, 8, and 10.

4. Requirements on support of travel and transportation requirements involving attendance at training are contained in the JTR, Volume 2.

5. Educational service agreements may be entered into with established colleges, universities, or other educational institutions. Agreements may include all normal tuition and fees in established schedules applicable to all students attending the institution (excluding off-duty educational programs for individual employees). Each request requires a contract that should be initiated via use of the DD Form 1556.

6. Employees nominated to attend training in a government or non-government facility will be issued on a DD Form 1556 that is signed by an official with approving authority.

7. When the training has been procured by means of contract or educational services agreement, payment will be made in accordance with the provisions therein. If there is no contract or agreement, payment will be made based on billings (invoices) received and approved by the sponsoring activity supported by copy 6 or 7 Agency (Finance/Disbursing, Tuition) or Agency (Finance/Disbursing, Books, etc.) of the DD Form 1556, as appropriate.

C. Advance Payment. Advance payment of tuition and other expenses is authorized either when the training facility renders or refuses to render a billing, or advance payment is indicated in Section G on the DD Form 1556. The public voucher will identify the training facility by name and address and indicate the amount and serial number of the check drawn to the facility for the advance of tuition, as well as the amount and serial number of the check drawn to the trainee for purchase of books, library, and laboratory services. The original and 2 reproduced copies (front and back) of the Agency Finance/Disbursing copy of the DD Form 1556, copy 6 or 7, must be submitted to the disbursing office to support payment of the advance. The original Agency Finance/Disbursing copy of the DD Form 1556, copy 6 or 7, will be endorsed by the disbursing officer to reflect the advance payment and will be transmitted with the check to the trainee.

D. Liquidation of Advance. Within 5 workdays after completion of the training, the trainee will prepare an SF 1164 itemizing the training expenses, attaching receipts when obtainable, and submit the original agency finance copy of DD Form 1556 which was endorsed with the advance payment information. The disbursing office will liquidate the advance payment in the same manner as prescribed for travel advances.

#### 120213 Support of Armed Forces Personnel in Confinement

Purchase of health and comfort items for personnel confined on base is authorized not to exceed \$40 monthly per prisoner. Corrections officers should purchase these items for issue through the use of an SF 1034. Do not make

cash payment to individual prisoners. Purchases of necessary uniform clothing items are authorized and processed in accordance with the regulation of the service of the prisoner, whether one is in a pay or non-pay status. Administrative costs for the prisoner's deposit fund, such as the purchase of checks and bank service charges, will be paid in accordance with the regulation of the Military Service of the prisoner.

#### 120214 Confinement of Female Prisoners in Civil Detention

When DoD confinement facilities are not available, or do not provide for the separation of male and female prisoners, regulations provide procedures for transferring female prisoners to civil detention facilities. The Security Office transfers female prisoners and provides the disbursing office with supporting documents for payment of the confinement expenses. The disbursing office submits payment to the civil confinement facility and coordinates on all matters of pay and allowances due the prisoner while in confinement. The funds to be charged for the confinement are determined by the expenses itemized on the invoice.

#### 120215 Pollution Control Permits or Fees

In the absence of express Presidential exemption, DoD facilities must abide by state or local laws for abatement and control of pollution. This includes obtaining permits and paying the associated fees. Use an SF 1034 to pay claims based on the certification or approval of the base civil engineer.

#### 120216 Municipal Services

Under 10 U.S.C. 2465, absent specific legislative authorization, DoD disbursing offices may not make payments for any service required to be provided by the local government if such service is financed from revenues raised by state or local taxation from which the Federal Government is exempt. Common examples are police and fire protection. The Department may pay on the same basis as private users for services based on the quantity of direct services received, i.e., water and sewage. The general rule is that the Department will not pay for municipal services

unless private citizens and businesses also pay a charge for the same services. While payments made under contracts prior to the enactment of Public Law 101-510, November 5, 1990, are held to be valid, there is no legislation holding payments made after that date to be valid.

#### 120217 Arbitrator Fees

The use of arbitrator services under negotiated grievance procedures of management and labor union agreements is authorized. These services normally are acquired by issuance of a DD Form 1155 which specifies payment terms and conditions. The civilian personnel office submits approved documents to the responsible activity for funds certification and reservation of funds before obtaining contract action. Upon completion of services, the civilian personnel office certifies that services have been received. This certificate serves as documentation representing the receiving report required for payment. Pay the arbitrator on the date specified in the contract. If the contract does not contain a due date, pay as close as possible to (but no earlier than 7 days before) 30 days after the later of receipt of invoice or acceptance of service.

#### 120218 Payment for Advertising

A. General. In accordance with 44 U.S.C. 3702, prior to advertising in newspapers, trade journals, and similar publications, written authority to advertise must be received from the cognizant DoD Component Head or from a person who has received written delegation of authority from the Head of a DoD Component. Such delegation of authority cannot be redelegated.

##### B. Payment

1. Providing Substantiating Documentation. Procurement documents for official advertising will provide that each invoice accompanied by an affidavit of publication or a copy of the publication or advertisement (known as a "tear sheet") will be submitted to the purchasing office. The officer placing the advertisement will attach to the invoice a copy of the procurement document and evidence of authority to advertise and forward the invoice to the disbursing office.

Except in cases of blanket authority to advertise, the public voucher for advertising will be accompanied with a copy of the original authority to advertise signed by the Head of the DoD Component or an officer delegated to authorize advertising. If advertising was authorized by a delegated officer, a copy of the delegation will be attached to the first public voucher paid under such delegation and will be referenced on subsequent vouchers. When the authority to advertise is given to several activities in the form of a notice or instruction issued by the Head of a DoD Component on that official's delegated authority, a reference to the authorizing notice or instruction on the advertisement order is acceptable in lieu of a copy of the authority.

2. Retainment of Supporting Documents. Every account for official advertising rendered will be accompanied by a tear sheet in which the advertisement appeared as a proof of publication. However, if tear sheets are not available, an affidavit or publication may be furnished in lieu thereof. The affidavit will be signed by an official of the publishing firm or advertising agency with which the order was placed and, in the case of advertising in newspapers or periodicals, will identify the issues in which the advertisement appears. Tear sheets or affidavits submitted as proof of publications will not be forwarded to the GAO as part of the disbursing office's account but will be attached to the memorandum public voucher and retained.

3. Radio Advertising. The Comptroller General has determined that the requirement of written authority for advertising from the Head of a DoD Component or from a person who has received written delegation of authority does not apply to radio advertising. The other restrictive provisions relating to advertising in 44 U.S.C. 3702 are confined also to advertising in newspapers. There are no general restrictions upon the use of appropriated funds for radio advertising if in promotion of objectives for which appropriated. The prescribed forms and substantiating documents set for advertising in newspapers do not apply to radio advertising. An SF 1034 will be used in making payment for radio advertising.

#### 120219 Demurrage on Cylinders

Vouchers covering demurrage charges on gas cylinders or drums retained beyond the contract free period may be prepared on a quantity basis. This means based on a number of cylinders, without regard to any particular cylinder, where contracts so provide. In such cases, explain the method of calculating demurrage, cite the voucher covering the preceding demurrage payment and other identifying data such as the cylinder number, date cylinder was delivered, date rental starts, date cylinder was returned, and the actual number of days and rate per day on which the charges were computed. Charge the funds of the activity which caused the delay. Identify also the voucher upon which payment was made for the filled containers (19 Comp Gen 53 (1939)).

#### 120220 Civilian Uniform Allowances

Payment of civilian employee uniform allowances will be made in cash or by check on public vouchers prepared and certified by proper authority. Payment will be made by the disbursing office serving the activity for the payment of civilian payrolls. When more than one employee is paid in cash on the same voucher, the signature of each payee acknowledging payment will be obtained on the original voucher. The payment will be charged to the same appropriation and subsidiary accounting data normally charged for the salary of the personnel concerned.

#### 120221 Payment to Military Personnel for Lost or Damaged Clothing

Military personnel entitled to reimbursement for lost or damaged clothing submit an original and two copies of approved form Personal Clothing Claim. The disbursing office will prepare an SF 1034 for payment to the member.

#### 120222 Payment for Representation and Contingencies Fund Use

A. General. The instructions in this paragraph apply to disbursements made against funds separately appropriated in the contingencies fund.

cies program. These include representation, special expenses, and contingencies. For each fiscal year, the Congress appropriates funds in the contingencies program under the statutory authority in 10 U.S.C. 140 for use by the Head of each DoD Component. Funding documents provide authority to obligate and expend contingency funds as approved or as adjusted later during the fiscal year.

B. Representation Funds. Unless otherwise specifically authorized by the cognizant Head of a DoD Component, representation funds are expended by commanders only for official entertainment or other official purposes authorized. All expenditures of contingency funds for official representation specifically must be approved before the event by the applicable commander or designee. Such approvals must be of formal record and, at a minimum, indicate the purpose, number of guests, and estimated cost. Payments are made on an SF 1034 and certified or approved by the commander or designee. As an alternative, the commander or designee may submit a properly certified statement with supporting documentation to the disbursing office for preparation and certification of the payment voucher.

C. Emergency and Extraordinary Expenses. The language in the Appropriation Act for contingencies usually reads: "For emergencies and extraordinary expenses, to be expended on the approval of the Secretary of the cognizant Military Service, and payments may be made on their certificate of necessity for confidential military purposes." Use the following procedures for the type of payment indicated:

1. Miscellaneous Current Expense. Payments against miscellaneous current expense funds generally are made on an SF 1034.

2. Intelligence Contingency Funds (ICF). Payments generally are for confidential military purposes and normally are made on a DD Form 281, Voucher for Emergency or Extraordinary Expense Expenditures. Exceptions are processed on other appropriate voucher forms. The original of all vouchers such as DD Form 281, SF 1034, and SF 1080, except for collection and correction vouchers, are returned

to the originator. The original voucher and supporting documents are retained by designated ICF managers.

3. Investigation Expenses. Classified investigation expenses for confidential military purposes are vouchered on a DD Form 281. Expenses for other than confidential military purposes are vouchered on an SF 1034. The vouchers are prepared in original and four copies using the applicable form. All other supporting documents are retained by the originating office.

#### 120223 Cash Awards to Military Members

A. Military personnel may receive cash awards for suggestions, inventions, and scientific achievements as authorized by Military Service regulations.

B. Upon approval of an award, the Executive Secretary of the Suggestion Awards Committee prepares, certifies, and submits an SF 1034 (plus a copy of the Suggestion Award Certificate) to the disbursing office.

C. Upon receipt of the certified SF 1034:

1. The voucher is reviewed for propriety.

2. The payment is made against current funds available from the activity to which the member was assigned at the time the suggestion, invention, or achievement was submitted.

3. Federal income tax withholding is required on all cash awards. The only exception to the requirement for withholding Federal income tax on cash awards is when payment is made to an enlisted member serving in a combat zone.

#### 120224 Payment of Tuition Refunds

A. Sponsors of tuition-paying students attending DoD-operated schools overseas may receive a prorated refund of tuition if they terminate enrollment before the last 20 academic

days of the semester (see DoD Directive 1342.13).

B. The school administrator prepares, certifies, and submits an SF 1034 to the disbursing office for payment. The SF 1034 must include the name of the student, date enrollment was terminated, and the amount authorized for refund.

C. Pay the voucher after reviewing it for propriety and ensuring that related funds are available in deposit fund accounts.

#### 120225 Hospital Accreditation

If required, payment for any part or all of the initial or reaccreditation surveys may be made in advance.

#### 120226 Handling Charges

Contractors may include a handling charge, service charge, or minimum billing charge on orders below a certain value. If these charges are included in the contract, they may be paid (48 Comp Gen 168 (1968)).

#### 120227 Reciprocal Mutual Aid Agreements for Fire Protection

A. Claims for reciprocal mutual aid agreements for fire protection are required by 44 Code of Federal Regulations (CFR) 151 to be submitted to the Administrator, U.S. Fire Administration, Federal Emergency Management Agency (FEMA), Washington DC 20472, by non-DoD fire-fighting organizations. If approved, such claims are paid by the Department of the Treasury, subject to reimbursement by the DoD installation under whose jurisdiction the fire occurred.

B. If the claims affect current funding for fire protection, the FEMA will contact the installation as a part of its claim processing and adjudication procedures. Provide information requested, in coordination with the civil engineer, fire protection unit, and staff judge advocate. Provide complete name and address of the disbursing office, including the Accounting Station Disbursement Number, and an appropriation fund cite for fire protection funding so that

the Treasury Department can bill for reimbursement for approved claims paid.

C. Commit available fire protection funds for the estimated amount of claims, either when notified or when contacted by the FEMA under its claim processing procedures. When the Treasury Department pays such claims on behalf of DoD activities, record an obligation and accrued expenditure for the amount reimbursed to the Treasury Department.

#### 120228 Discrimination Complaints

A. General. Costs incurred in processing discrimination complaints may include travel expenses, attorney fees, investigation expenses, costs of Administrative Judges, and court reporters. Reference, Discrimination Complaints and 5 CFR 1201.37, for administrative and procedural guidance. There is a potential expense of up to \$300,000 compensatory damages liability for claims of intentional discrimination under the Civil Rights Act of 1991.

B. Attorney Fees. In cases involving complaints of discrimination, attorney fees may be awarded pursuant to either a no-fault settlement agreement, an informal adjustment, a decision of the service director of Equal Employment Office (EEO), the Equal Employment Opportunity Commission (EEOC), the Merit Systems Protection Board, an arbitrator, a Federal court, or other appropriate authority. After review and approval of the award letter by the legal counsel, prepare an SF 1034, supported by the award letter and approval, made jointly payable to the complainant and complainant's representative. Requests to make actual payments are initiated by the EEO manager of the legal office. Cite local operating funds current when the employee or employee's representative is notified of the amount payable on the claim for attorney fees and cost. In addition, new rules under 29 CFR 1614 for reinvestigations that became effective on October 1, 1992, may apply.

C. Investigation Expenses. Most complaints are investigated by an investigator assigned to the appellate review agency. The EEO manager arranges for the investigator's visit and submits a claim citing operating funds current at

the time services are requested. If local funds are used for miscellaneous purchases, the chief EEO counselor will initiate a purchase request using current operating funds. An SF 1034 or a DD 1155, approved by the chief EEO manager, will be used to make payment.

D. EEO Administrative Law Judge. An EEO Administrative Law Judge is an official assigned by the EEOC to hold hearings on formal complaints of discrimination and otherwise process individual and class complaints for the EEOC. Expenses associated with these complaints are funded by the activity where the alleged discrimination took place using operating funds current at the time the services are requested. The EEOC will bill this activity for any authorized and required expenses. The chief EEO manager reviews and approves the EEOC billing before payment by the disbursing office.

E. Court Reporter. The chief office of counsel arranges for the services of a court reporter by submitting a request to the DoD Component contracting office. Costs for court reporter services are funded by the activity where the alleged discrimination took place using funds current at the time services are requested. The chief EEO manager reviews and approves the SF 1034 or DD 1155 for payment.

F. Interest payments (when permitted by statute) are to be charged to funds current when the award is made. The rate used is established by the Internal Revenue Service (IRS).

NOTE: This IRS rate is not the same as that used for interest under the Prompt Payment Act.

## 1203 CREDIT CARDS

### 120301 Applicability

This section prescribes required financial policy and procedures to process government credit card payments. Government credit cards are issued under a General Services Administration (GSA) firm fixed price requirement contract. The government credit card is officially named the International Merchant Purchase Authorization Card (I.M.P.A.C.).

### 120302 Policy

A. Documentation. Appropriate documentation will be maintained at all levels to support the integrity of the credit card program and facilitate the reconciliation and payment of credit card transactions. Cardholders will establish clear audit trails for credit card transactions by maintaining documentation to support each purchase (e.g., requisitions, including cross references to any related Blanket Purchase Agreements, telephone and mail order logs, receipt records, charge tickets, and credit slips). The cardholder's monthly Statement of Account (SOA) itemizes each transaction posted against the account through the end of the billing cycle. Each Cardholder shall reconcile and annotate each SOA, as prescribed by local procedures, against supporting documentation. Next, the Cardholder shall sign the SOA and forward it to the Approving Official. The cardholder's annotated and signed SOA constitutes receipt and acceptance of the goods or services for which the account was charged. The Approving Official reviews the itemized charges for each of his or her cardholders and signs each SOA which certifies that purchases were for official requirements. The Approving Official's Business Account Summary (Report R090) summarizes the billing cycle activity for each of their cardholders. The Approving Official reconciles the cardholders' SOAs to the Business Account Summary and makes appropriate annotations and signs the Summary. The annotated and signed Approving Official's Business Account Summary constitutes proof of receipt and legitimacy of goods and services. This Summary serves as a receiving report to support payments.

B. Disputed Credit Card Transactions. If a questionable transaction (e.g., erroneous charge, duplicate transaction, etc.) appears on a cardholder's SOA, the cardholder completes and processes a Cardholder Statement of Questioned Item (CSQI) form according to local procedures. The CSQI form is attached to a copy of the SOA and forwarded to the Approving Official. The Approving Official verifies that the cardholder's disputes are valid and prepares a Notice of Invoice Adjustment (NIA) form which lists each CSQI transaction for which payment should be withheld. The Approving Official attaches the

NIA to the Business Account Summary and forwards it to the disbursing office.

120303 Payment

The I.M.P.A.C. Financial Summary (Report R063) is the official invoice for credit card purchases. For purposes of determining the payment due date and date on which interest will begin to accrue, the invoice shall be paid in compliance with the guidance contained in paragraphs 070201, 070301, 070302, and 070307. Payment is due 30 days after receipt of the invoice in the designated billing office.

120304 Responsibilities of the Disbursing office

A. The disbursing office will receive an annotated and signed copy of each Approving Official's Business Account Summary. The summarized charges are included on the official invoice along with the applicable NIAs. Cardholders' SOAs, signed by both the cardholder and the Approving Official and supporting documentation, will be maintained by the cardholders or by their Approving Officials. If annotations on the cardholder's SOAs are required to process the I.M.P.A.C. invoice, local procedures may require a photocopy of the cardholder's SOAs to be attached to the Approving Official's Business Account Summary and forwarded to the disbursing office.

B. The disbursing office will ensure that only transactions which have been certified for payments by the Approving Officials are processed for payment. Valid disputed transactions, for which NIA forms have been received, will be deducted from the official invoice. The NIA form must accompany payment to the credit card contractor in order that the total official invoice amount is accounted for. In mathematical terms, the payment amount is the net of the current charges minus any current credits and disputed items plus any prior disputed items approved for payment.